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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/058,790	01/30/2002	Akihiro Denda	107156-00095	4718

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EXAMINER

PSITOS, ARISTOTELIS M

ART UNIT PAPER NUMBER

2653

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/058,790	Applicant(s) DENDA ET AL.	
	Examiner Aristotelis M Psitos	Art Unit 2653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/25/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

The IDS of 9/25/03 has been reviewed and made of record.

Specification

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Objections

Claim 1 is objected to because of the following informalities: The use of the slash symbol in line 1 of claim 1 has been interpreted to mean a "read and write" apparatus, as opposed to a "read or write" apparatus. If this is incorrect then appropriate correction is required.

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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1. Claims 1-8 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over EP document 0997900 or under 102 (e) as anticipated by the US equivalent patent 6553532.

With respect to apparatus claim 1, the document to Aoki, either the EP or the US discloses in this environment the ability of reading source information and writing it to a record medium – 2. The write device of claim 1 is interpreted as element 4, whereas the read device is interpreted as inherently present as discussed at col. 6 line 27 to col. 7 line 31 in the US patent and the equivalent passages in the EP document. The detecting means, determination means and the control means are inherently present – see the description starting at col. 8 line 39 to col. 9 line 64. The ability to detect an interruption, determine the write status and the appropriate control means is present in order to carry out a rewrite/retry of the information to complete the recording that was aborted due to power loss.

Although the document doesn't specifically mention that the source of the information to be recorded onto the record 2 is from a first information storage medium, the examiner interprets the source of information as described in the above passages of the US/EP document as either :

a) anticipating such/ inherently present under 102 considerations, i.e., the source information must be from a record source;

or, b) alternatively if applicants' can convince the examiner that such a first information storage medium is not inherently present under 102 considerations, then under 103 considerations, the examiner takes Official notice of duplicating systems, processes in which a mother source (record medium) provides the information to be recorded onto a duplicate/slave/child/clone, etc.

It would have been obvious to modify the base system of Aoki with the well-known ability of having a "mother" source as the source of information in a duplicating apparatus as providing the input for subsequent recording upon duplicates, copies. Motivation is to provide an appropriate source of incoming information.

With respect to claim 2, applicants' attention is drawn to col. 9 lines 53-64.

With respect to claims 3,4, the examiner interprets such as the indication/evaluation of the ecc as discussed with respect to the operation of the Aoki system – col. 8 line 39 to col. 9 line 64.

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With respect to the limitations of claims 5 and 6, they are inherently present in the above system

– see the flow-charts and the accompanying disclosure in the US Aoki reference.

With respect to claims 7 and 8, these are method limitations analogous to the apparatus limitations of claims 1 and 6 and are met when the above system to Aoki operates.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
3. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claims 1-8 above, and further in view of Official notice.

Claim 9 is drawn to a product, a storage medium, which stores a program, a set of instructions that permits analogous appropriate method steps as defined in claim 7.

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Although the system to Aoki implies that there is appropriate set of instructions for the system to follow the flow chart of figures 2 & 3, it is not specifically mentioned.

The examiner takes Official notice of storage mediums (such as floppy discs) for storing a set of instructions. These instructions are then relied upon in a microprocessor in providing the system with operational ability (i.e., operating system). Any pc/microprocessor requires a set of instructions to perform an operation.

It would have been obvious to modify the base system of Aoki and provide for a program record medium having therein the set of instructions to perform the operation outlined/discussed as designated in the flow charts of figures 2 & 3. Motivation is to provide for a source/set of instructions as either a back up, or as the original – commonly used in systems such as any system using a set of MICROSOFT™ instructions.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Chan and De Bie are illustrative of alternative prior art recovery systems in this environment.

Applicants' attentions is also drawn to the MAT (Machine Assisted Translation) of JP 11-167787 which also describes a prior art system compensating for loss of power during recording of an audio input signal. There is no identified specific source for the audio incoming signal (inputs 1a, 1b).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aristotelis M Psitos whose telephone number is (703) 308-1598. The examiner can normally be reached on M-Thursday 8 - 4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William R. Korzuch can be reached on (703) 305-6137. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Aristotelis M Psitos
Primary Examiner
Art Unit 2653

A handwritten signature in black ink, appearing to be 'A. Psitos', written over the printed name of the examiner.

AMP